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GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF ENVIRONMENTAL QUALITY
LANSING



DAN WYANT
DIRECTOR

August 21, 2013

Ms. Sheila Desai, Remedial Project Manager
United States Environmental Protection Agency
Region 5
77 West Jackson Boulevard (SR-6J)
Chicago, Illinois 60604-3507

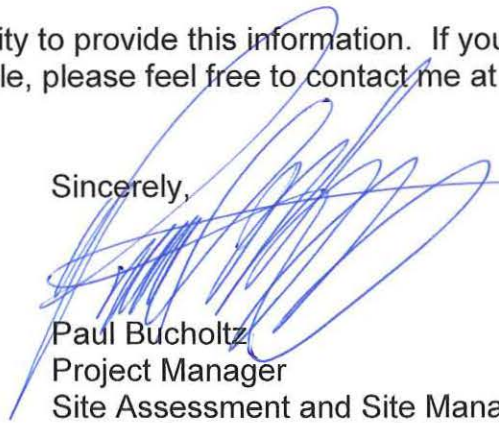
Dear Ms. Desai:

SUBJECT: Former Plainwell Mill - Operable Unit 7
Applicable Relevant and Appropriate Requirements (ARARs) Table

The United States Environmental Protection Agency (USEPA) requested that the Michigan Department of Environmental Quality (MDEQ) identify Michigan's ARARs to be included in the final Feasibility Study (FS) Report for Operable Unit 7 of the Allied Paper Inc./Portage Creek/Kalamazoo River Superfund Site (OU7). The MDEQ is providing the enclosed ARARs table that reflects recent changes to some state statutes and rules.

The MDEQ appreciates the opportunity to provide this information. If you have any questions regarding the enclosed table, please feel free to contact me at the number below.

Sincerely,



Paul Bucholtz
Project Manager
Site Assessment and Site Management Unit
Superfund Section
Remediation and Redevelopment Division
517-284-5072

Enclosure

cc: Ms. Polly Synk, Michigan Department of Attorney General
Ms. Daria W. Devantier, MDEQ

STATE ARARs for OU7 - ALLIED PAPER, INC./PORTAGE CREEK/KALAMAZOO RIVER SUPERFUND SITE				
Statute or Regulation	Citation	Description	ARAR/TBC	Rationale
STATE CHEMICAL-SPECIFIC ARARs				
Michigan Natural Resources and Environmental Protection Act (NREPA), Public Act 451, Part 31 - Water Resources Protection	MCL 324.3101-3133	Prohibits direct or indirect discharge of a substance that is injurious to public health, recreational use, or aquatic life. Establishes rules specifying standards for several water quality parameters.	Applicable	Any remedial action that results in the unacceptable discharge of injurious substances will not be considered effective or complete. Substantive requirements of an NPDES permit must be attained.
NREPA Part 31 Rules	Michigan Administrative Code (MAC) R 323.1041-1116 (Part 4 Rules)	The Part 4 Rules specify water quality standards which shall be met in all waters of the state. The rules require that all designated uses of the receiving water be protected, including indigenous aquatic life and wildlife.	Applicable	These rules drive the need to reduce contaminant loading to Portage Creek and the Kalamazoo River. Surface water quality standards may be used to assess surface water quality in the vicinity of the Allied Paper Operable Unit and as a means to gauge effectiveness of a remedial action.
NREPA Part 31 Rules	MAC R 323.1201-1221 (Part 8, Water Quality-Based Effluent Limit Development for Toxic Substances Rules)	In accordance with federal WPCA and CWA, the Part 8 Rules establish chemical-specific water quality-based effluent limits (WQBELs) for point-source discharges.	Relevant and Appropriate	Part 201 requires that remedial actions comply with Part 31 and its promulgated rules. Criteria are applicable to venting groundwater, storm water, and discharge associated with implementing the remedial action.
NREPA Part 31 Rules	MAC R 323.2101-2104, 2136-2140, 2142-2145, 2149, 2152-2155, 2160-2161, 2190 (Part 21, Wastewater Discharge Permit Rules)	The Part 21 Rules establish a waste effluent discharge system compatible with NPDES.	Relevant and Appropriate	Substantive requirements of state discharge permits (including storm water permits) must be attained for remedial actions taking place on site.
NREPA Part 31 Rules	MAC R 323.2201 - 2240 (Part 22, Groundwater Quality Rules)	The Part 22 Rules set groundwater classification and associated water quality standards.	Applicable or Relevant and Appropriate	Substantive requirements will apply to remedial alternatives under consideration.
Michigan Public Act 451, Part 55 - Air Pollution Control	MCL 324.5501-324.5542	Establishes rules prohibiting the emission of air contaminants in quantities which cause injurious effects to human health, animal life, plant life or significant economic value, and/or property.	Applicable or Relevant and Appropriate	Applicable for remedial alternatives that would generate air emissions (e.g., dust, during excavation, soil stabilization, or compaction). For certain remedial alternatives air emissions must comply with substantive requirements of permits and monitoring would be required.
Part 55 Rules	MAC R 336.1101-2706	Establishes rules prohibiting the emission of air contaminants in quantities which cause injurious effects to human health, animal life, plant life or significant economic value, and/or property.	Applicable or Relevant and Appropriate	Applicable for remedial alternatives that would generate air emissions (e.g., dust, during excavation, soil stabilization, or compaction). For certain remedial alternatives air emissions must comply with substantive requirements of permits and monitoring would be required.
Michigan Public Act 451, Part 201 - Environmental Remediation	MCL 324.20101 - MCL 324.20142	Part 201 requires that remedial action be consistent with cleanup criteria. Generic and site-specific criteria deemed to meet the protectiveness requirement.	Applicable	By statute, the Allied OU is a "facility." Response activities conducted at the site must meet the appropriate state-established protective criteria. If these criteria are attained the remedial action will be considered protective by MDEQ.
NREPA Part 201 rules	MAC R 299.5101 - 5117; R 299.5701-5752	Part 201 establishes rules that are used to develop generic site cleanup criteria for soil and groundwater. Criteria tables are published at the direction of the Legislature in statute (see next row).	Applicable	By statute, the Allied OU is a "facility." Response activities conducted at the site must meet the appropriate state-established protective criteria. If these criteria are attained the remedial action will be considered protective by MDEQ.
NREPA Part 201 criteria tables	Statutorily-required (see MCL 324.20120a(1)(b)) criteria found at: http://www.michigan.gov/deq/0,1607,7-135-3311_4109_9846_30022-251790--,00.html	Tables setting forth nonresidential and residential soil and groundwater criteria	Applicable	By statute, the Allied OU is a "facility." Response activities conducted at the site must meet the appropriate state-established protective criteria. If these criteria are attained the remedial action will be considered protective by MDEQ.
STATE ACTION-SPECIFIC ARARs				
Michigan Public Act 451, Part 17 - Michigan Environmental Protection Act	MCL 324.1701 - 324.1706	Prohibits the pollution, impairment, or destruction of the State's natural resources or the public trust in those resources.	Applicable	Remedial actions must be conducted in a manner that does not pollute, impair or destroy the State's natural resources.
Michigan Public Act 451, Part 31 - Water Resources Protection	MCL 324.3101-3133	Prohibition of discharge waste or waste effluent into surface water without approval of the State and establishment of rules; provisions in 3109b allow for mixing zone for discharge of venting groundwater, 3108 prohibits filling or grading of a floodplain unless permitted by the State, and 3109b defines when Part 31 remedial obligations are met.	Applicable or Relevant and Appropriate	Certain remedial alternatives may involve discharge of waters to the Kalamazoo River. Substantive requirements of a NPDES permit must be attained. For any remedial alternative where waste is left in place, the mixing zone criteria shall not be less protective than for point source discharges. For any remedial alternative meeting the requirements of Part 201, Part 31 requirements are satisfied.
NREPA Part 31 Rules	MAC R 323.1041 - 323.1117; R 323.1171 - 323.1181; R 323.1201 - 323.1221; R 323.1311 - 323.1329 (Part 13, Floodways and Floodways Rules); R 323.1701 - 323.1714; R 323.2101- 323.2197; R 323.2201 - 323.2240; R 323.2301 - 323.2317; R 323.3001 - 323.3027; R 324.2001 - 324.2009	Prohibition of discharge waste or waste effluent into surface water without approval of the State and establishment of rules; Part 13 rules regulate activities to occupy, fill, or grade lands in a floodplain, streambed, or channel of a stream.	Applicable or Relevant and Appropriate	Certain remedial alternatives may involve discharge of waters to the Kalamazoo River. Substantive requirements would need to be met for certain remedial activities
NREPA Part 31 Rules	MAC R 323.2201 - 2240 (Part 22, Groundwater Quality Rules)	The Part 22 Rules set groundwater classification and associated water quality standards.	Applicable or Relevant and Appropriate	Substantive requirements will apply to remedial alternatives under consideration.
Michigan Public Act 451, Part 55 - Air Pollution Control	MCL 324.5501-324.5542	Establishes rules prohibiting the emission of air contaminants in quantities which cause injurious effects to human health, animal life, plant life or significant economic value, and/or property.	Applicable or Relevant and Appropriate	Applicable for remedial alternatives that would generate air emissions (e.g., dust, during excavation, soil stabilization, or compaction). For certain remedial alternatives air emissions must comply with substantive requirements of permits and monitoring would be required.
Part 55 Rules	MAC R 336.1101-2706	Establishes rules prohibiting the emission of air contaminants in quantities which cause injurious effects to human health, animal life, plant life or significant economic value, and/or property.	Applicable or Relevant and Appropriate	Applicable for remedial alternatives that would generate air emissions (e.g., dust, during excavation, soil stabilization, or compaction). For certain remedial alternatives air emissions must comply with substantive requirements of permits and monitoring would be required.
Michigan Public Act 451, Part 91 - Soil Erosion and Sediment Control	MCL 324.9101-324.9123a	Requirements for owners of land undergoing an earth change. Establishes rules prescribing soil erosion and sedimentation control plans, procedures, and measures.	Relevant and Appropriate	For any remedial action involving an earth change, liable parties must implement and maintain soil erosion and sedimentation control measures. Substantive requirements of permit must be satisfied.
NREPA Part 91 Rules	MAC R 323.1701-1714	Requirements for owners of land undergoing an earth change. Establishes rules prescribing soil erosion and sedimentation control plans, procedures, and measures.	Relevant and Appropriate	For any remedial action involving an earth change, liable parties must implement and maintain soil erosion and sedimentation control measures. Substantive requirements of permit must be satisfied.
Michigan Public Act 451, Part 111-Hazardous Waste Management	MCL 324.11105	Establishes requirements for hazardous waste generators, transporters, and treatment/storage/disposal facilities.	Relevant and Appropriate	Response activities may generate waste material that may be classified as hazardous waste from former mill operations. Used for characterizing and identifying hazardous wastes and determining appropriate disposal options.
Part 111 Rules	MAC R 299.9101 -11107	Establishes requirements for hazardous waste generators, transporters, and treatment/storage/disposal facilities. Includes requirements for use of a manifest system (f 299.9608-9609) to track the type and quantity of hazardous waste received by or shipped from a facility.	Relevant and Appropriate	Response activities may generate waste material that may be classified as hazardous waste from former mill operations. Used for characterizing and identifying hazardous wastes and determining appropriate disposal options.
Michigan Public Act 451, Part 115- Solid Waste Management	MCL 324 11501-11550	Establishes rules for methods of solid waste disposal and for design/operational standards for disposal areas. Describes where Type III Landfill standards apply.	Relevant and Appropriate	If materials generated by remedial activities are "solid waste", substantive requirements of Part 115 for disposal shall apply. Landfills that may be part of the project site and affected by remedial activities must comply with the requirements of Type III landfill standards for capping.
Part 115 Rules	MAC R 299.4101-4922	Rules provide specifications for Type III landfill final cover design to minimize erosion and infiltration to protect public health; Type III landfill groundwater monitoring requirements, requirements for hydrogeological monitoring plan, monitoring network, and associated sampling, requirements for final cover materials, and Construction Quality Controls.	Applicable or Relevant and Appropriate	If the project site includes landfills meeting the Type III definition, the cover design requirements and rule specifications must be met. A design that keeps the final cover from being inundated is capable of limiting erosion and infiltration to the extent necessary to protect human health and the environment. Substantive portions of Construction Quality Control must be met in Remedial Design and Remedial Action.
Michigan Public Act 451, Part 121 - Liquid Industrial Waste	MCL 324.12101 - 324.12118	Imposes requirements on generators for storage, documentation, and handling for onsite liquid waste in preparation for transport, for the use of registered haulers, and for the inspection of vehicles and control of the disposal of wastes.	Relevant and Appropriate	Remedial actions may require transportation and disposal of liquid waste, and the Part 121 requirements apply to the storage and transport of those wastes.

STATE ARARs for OU7 - ALLIED PAPER, INC./PORTAGE CREEK/KALAMAZOO RIVER SUPERFUND SITE				
Statute or Regulation	Citation	Description	ARAR/TBC	Rationale
STATE ACTION-SPECIFIC ARARs				
Michigan Public Act 451, Part 201 - Environmental Remediation	MCL 324.20101 - 20142	Requires that a remedial action shall provide for response activity that will satisfy cleanup criteria; requirements for owner of facility, such as preventing exacerbation and exercising due care; restrictions on transfer of real property designated as a facility, and requirement that if residential criteria are not met, land use restrictions must be provided. Actions required upon approval of remedial action plans, elements of remedial action plans; required action if contaminated soil is moved off-site or relocated within the site.	Applicable or Relevant and Appropriate	The remedial action implemented must meet generic or site-specific cleanup criteria; property cannot be transferred without notification of land use restrictions that apply to the site due to contamination. Actions leaving contamination in place must, with county register of deeds, record restrictions on activities that may interfere with the integrity of the remedial action and on activities that may result in unacceptable exposure. Substantive requirements can be met in remedial design documents, i.e. including an aquifer monitoring plan and operation and maintenance plan. Such plans identify points of compliance for judging the effectiveness of the remedial action. Material moved off site must be evaluated to determine if it is subject to Part 111. Required approval to move soil can be attained through MDEQ approval of a Remedial Design.
NREPA Part 201 Rules	MAC R 299.5701-299.5752	Part 7 Rules: Cleanup Criteria Requirements for Remedial Actions and Interim Response Activity Designed to Meet Criteria	Applicable	The remedial action implemented must meet generic or site-specific cleanup criteria, applicable to all environmental media and may be used to gauge the success of the remedial action.
NREPA Part 201 Rules	MAC R 299.5501-5540, MAC R 299.51001-51021	Objectives of response activities, determination (or nullification) that a response activity is complete, Required elements of remedial action plans; Requirements for land use restrictions if residential criteria are not met; Liable parties must provide notice to the department and adjacent land owners in certain situations, such as if hazardous substances emanate beyond the property boundary.	Applicable or Relevant and Appropriate	When the response action is complete, the entity initiating the action has the burden of demonstrating that the action meets all requirements. Substantive requirements can be met in remedial design documents. For example, by including an aquifer monitoring plan and operation and maintenance plan. Such plans identify points of compliance for judging the effectiveness of the remedial action. All actions leaving contamination in place must, with county register of deeds, record restrictions on activities that may interfere with the integrity of the remedial action and on activities that may result in unacceptable exposure.
Michigan Public Act 451, Part 301 - Inland Lakes and Streams	MCL 324.30101 - 30113	Lists operations that are prohibited and conditions for operations impacting lakes and streams, including mitigation.	Relevant and Appropriate	For remedial alternatives involving placement of structures, fill, or dredging in the river channel or streambeds, the substantive requirements of these regulations may apply.
Part 301 Rules	MAC R 281.811-846	Regulates placement of structures, dredging or filling and other activities that may impact lake or stream bottoms and banks.	Relevant and Appropriate	For remedial alternatives involving placement of structures, fill, or dredging in the river channel or streambeds, the substantive requirements of these regulations may apply.
Michigan Public Act 451, Part 303 - Wetland Protection	MCL 324.30301 - 324.30329	Provides for protection and conservation of wetlands, including establishing rules regarding wetland uses and prohibitions on future use. A3	Relevant and Appropriate	For certain remedial alternatives, the substantive requirements of Part 303 may be relevant and appropriate if wetlands located on or adjacent to portions of the Site are disturbed.
Part 303 Rules	MAC R 281.921-925, R 281.951-281.961	Provides categories and types of wetlands and corresponding mitigation ratios for impacts to varying types of wetlands, as well as availability of wetland banks.	Relevant and Appropriate	Ratios and mitigation requirements may inform decisions about work in wetland areas.
Michigan Public Act 451, Part 307	MCL 324.30701 - 324.30723	Applies to dams affected by a circuit court order establishing the level at which the lake is to be maintained. Provides the process for establishing and maintaining a normal level of an inland lake. Requires approval of department of plans for construction, repairs, or replacement of a dam maintained under Part 307; prohibits changing the established normal lake level except as provided in Part 307.	Relevant and Appropriate	Remedial actions may require work that affects dams or impoundments governed by Part 307 and its requirements.
Michigan Public Act 451, Part 315 - Dam Safety	MCL 324. 31501 - 324.31529	Applies to dams over 6' in height and over 5 acres are impounded during the design flood. Provides requirements for dam construction and maintenance to ensure that dams are properly constructed, inspected and maintained, and that the owners have adequately prepared for potential emergencies. Permits are required for the construction, enlargement, repair, alteration, removal, abandonment and reconstruction of state regulated dams. Inspection reports are required every three to five years for state regulated dams based on their hazard potential rating.	Relevant and Appropriate	Where dam evaluation and repair, or dam removal, is proposed or required, the substantive requirements of Part 315 will be relevant and appropriate.
Part 315 Rules	MAC R 281.1301-1313	Sets forth process and required content of permits under Part 315, permit categories, inspection schedules, and penalties for noncompliance.	Relevant and Appropriate	Where dam evaluation and repair, or dam removal, is proposed or required, the substantive requirements of Part 315 will apply.
Michigan Public Act 451, Part 325 - Great Lakes Submerged Lands	MCL 324.32501 - 32516	For the purpose of preserve and protect the interest of the general public in the lands and waters of the State, prohibits unauthorized excavation, fill, or modification of Great Lakes waters or bottomlands below or lakeward of the natural ordinary high water mark. Provides process for state leases or conveyances and permits for construction of canals, marinas, permanent structures, and other construction.	Relevant and Appropriate	If remedial actions include any proposed construction of structures in Great Lakes waters or bottomlands or modification of those lands or waters, the requirements of Part 325 and the substantive requirements of the permit conditions are required. E46
Michigan Public Act 451, Part 365, Endangered Species Act	MCL 324.36501-324.36507	Provides for protection of endangered and threatened species; prohibits taking of listed species, imposes penalties and fines for violations.	Relevant and Appropriate	If endangered or threatened species are known to inhabit the project area, or if they are encountered during the remedial activities, the requirements of Part 365 will apply.
Part 365 Rules	MAC R 299.1021 - 1028	Lists fish, wildlife, and plant species that are endangered or threatened.	Relevant and Appropriate	If endangered or threatened species are known to inhabit the project area, or if they are encountered during the remedial activities, the requirements of Part 365 will apply.
Michigan Public Act 451, Part 413, Invasive Species	MCL 324.41301 - 324.41325	Lists nonnative species that are prohibited or restricted in Michigan; provides authority and procedures for State Natural Resources Commission to add or delete from the list. Provides for a permit for introduction of genetically engineered organisms. Provides penalties for violations.	Applicable	For any proposed or required planting, the requirements of Part 413 will apply to the selection or introduction of plant species.
Michigan Occupational Safety and Health Act, Act 154 of 1974	MCL 408.1001-1094	Establishes rules for safety standards in the workplace.	Applicable	On-site remedial actions have the potential to expose workers to contaminants. Construction, excavation and other site actions may present potential health hazards to workers. Human labor could construct remedial systems and provide long-term maintenance on the systems. Such activities are governed by worker safety and health standards under this act and MIOSHA standards and safety requirements are applicable to all site actions and activities.
MIOSHA Rules	Part 4 through 13 of the All Industry Administrative Rules, Part 1 through 91 (including the General Rules) of Construction Safety Standards Commission Rules, Part 1 through 93 of the General Industry Safety Standards Commission Rules, and Part 301 through 681 of the Occupational Health Standards Commission Rules	Establishes rules for safety standards in the workplace.	Applicable	On-site remedial actions have the potential to expose workers to contaminants. Construction, excavation and other site actions may present potential health hazards to workers. Human labor could construct remedial systems and provide long-term maintenance on the systems. Such activities are governed by worker safety and health standards under this act and MIOSHA standards and safety requirements are applicable to all site actions and activities.
Michigan Public Act 300 of 1949, as amended. Michigan Vehicle Code	MCL 257.716 - 257.750	Statute governs the reduction of maximum axle loads during springtime frost periods and provides for the establishment of rules.	Applicable or Relevant and Appropriate	Remedial action and construction may require heavy loads of equipment, fill dirt, contaminated media, etc. to be transported over roadways; however, this is not allowed during frost periods.